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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,570	06/03/2005	Hideki Nabesako	SONYJP 3.3-1033	3574

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EXAMINER	
PATEL, CHANDRAHAS B	
ART UNIT	PAPER NUMBER
2464	

MAIL DATE	DELIVERY MODE
07/30/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/537,570	NABESAKO ET AL.	
	Examiner	Art Unit	
	Chandrahas Patel	2464	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 July 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4-6 and 9-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *11-13* is/are allowed.

6)☒ Claim(s) *1, 4-6, 9, 10, 14-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/22/2010 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4-6, 9, 10, 14, 16, 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Ro (US-PGPUB 2002/0150123).

Regarding claim 1, Ro teaches an encoding/transmitting apparatus **[Fig. 2, 101]**, comprising: input means for inputting data **[Fig. 2, 106]**; encoding means for encoding the inputted data **[Fig. 2, 206, 212]**; storage means for storing the encoded data **[Fig. 2, 215]**; multiplexing means for multiplexing the encoded data stored in the storage means, for transmitting the multiplexed data to a predetermined receiving apparatus through a network **[Fig. 2, 214]**, and for generating a multiplexing-completion signal that includes information identifying the encoded data that was multiplexed by the

multiplexing means **[Page 4, Paragraph 46, the timestamps identify the multiplexing completion time about the information encoded];** monitoring means for monitoring a state of the network, in which the multiplexing means controls a bit rate of the multiplexing in accordance with the state of the network, and in which the encoding means calculates based on the multiplexing-completion signal an area occupied by the encoded data in the storage means, release the area occupied by the encoded data, and controls a bit rate of the encoding of further data inputted by the input means based on the area that was occupied by the encoded data **[Page 6, Para 67, controls the bit rate in accordance with status of the network and Page 4, Para 47-48, adjusts the stream based on the network communication rate and status of the network]**.

Regarding claim 4, Ro teaches storing and controlling an amount in which the multiplexing means can transmit data **[Page 4, Paragraph 46]**.

Regarding claim 5, Ro teaches the data includes a plurality of program data items, the encoding means encodes the program data items, independently of each other, the storage means stores the encoded program data items, independently of each other, and the multiplexing means multiplexes the encoded program data items, generating one output data item **[Page 4, Paragraph 45-46]**.

Regarding claim 6, Ro teaches an encoding/transmitting method **[Fig. 2, 201]**, comprising: inputting data **[Fig. 2, 106]**; encoding the inputted data **[Fig. 2, 206, 212]**; storing, in a storage unit, the encoded data **[Fig. 2, 215]**; and multiplexing the encoded data stored in the storage unit by use of a multiplexing unit, transmitting the multiplexed, encoded data to a predetermined receiving apparatus through a network **[Fig. 2, 214,**

220, Page 4, Paragraph 46-47], and generating a multiplexing-completion signal that includes information identifying the multiplexed, encoded data **[Page 4, Paragraph 46, the timestamps identify the multiplexing completion time about the information encoded]**; monitoring a state of the network, controlling a bit rate of the multiplexing in accordance with the state of the network, calculating an area occupied by the encoded data in the storage unit based on the multiplexing-completion signal, releasing the area occupied by the encoded data, and controlling a bit rate of the encoding of further inputted data based on the area that was occupied by the encoded data **[Page 6, Para 67, controls the bit rate in accordance with status of the network and Page 4, Para 47-48, adjusts the stream based on the network communication rate and status of the network]**.

Regarding claim 9, Ro teaches the data includes a plurality of program data items, the program data items are encoded, independently of each other, in the step of encoding the data, the encoded program data items are stored in the storage unit, independently of each other, in the step of storing the encoded data, and the program data items are multiplexed in the step of multiplexing the encoded data, thereby generating one output data item **[Page 4, Paragraph 45-46]**.

Regarding claim 10, Ro teaches an encoding/transmitting apparatus **[Fig. 2, 101]**, comprising: an encoding unit that encodes received data **[Fig. 2, 206, 212]**; a storage unit that stores the encoded data **[Fig. 2, 215]**; a multiplexing unit that multiplexes the encoded data received from the storage unit to produce multiplexed data, that transmits the multiplexed data to a predetermined receiving apparatus

through a network **[Fig. 2, 214]**; and that generates a multiplexing-completion signal that includes information identifying the encoded data that was multiplexed by the multiplexing unit **[Page 4, Paragraph 46, the timestamps identify the multiplexing completion time about the information encoded]**; a determining unit that monitors a state of the network, in which the multiplexing unit controls a bit rate of the multiplexing in accordance with the state of the network, and in which the encoding unit calculates based on the multiplexing-completion signal an area occupied by the encoded data in the storage unit, releases the area occupied by the encoded data, and controls a bit rate of the encoding of further data based on the area that was occupied by the encoded data **[Page 6, Para 67, controls the bit rate in accordance with status of the network and Page 4, Para 47-48, adjusts the stream based on the network communication rate and status of the network]**.

Regarding claim 14, 16 and 18, Ro teaches the encoding means stops the encoding when the area occupied in the storage means by the encoded data is larger than a predetermined value, and carries out the encoding when the area occupied by the data in the storage means is smaller than the predetermined value **[Page 4, Para 46-49, system stream is created by combining different streams and different streams are combined in such a way that the buffer overflow is prevented]**.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 15, 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ro (US-PGPUB 20020150123) in view of Terao et al. (USPN 7,187,844).

Regarding claims 15, 17 and 19, Ro teaches the inputted data includes audio data **[Fig. 2, 208]**.

However, Ro does not teach the encoding/transmitting apparatus further comprises audio-data output control means for fading-out the inputted audio data before the encoding is stopped and for fading-in of the inputted audio data when the encoding is again started.

Terao teaches the encoding/transmitting apparatus further comprises audio-data output control means for fading-out the inputted audio data before the encoding is stopped and for fading-in of the inputted audio data when the encoding is again started **[Col. 5, lines 40-44, fades out and fades in audio data before the data is output or input to memory]**.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to fade-out and fade-in audio data so that the audio level can be gradually decreased on increased **[Col. 5, lines 44-47]**.

Allowable Subject Matter

6. Claims 11-13 are allowed.

7. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 11-13, the references teach all limitations of the claim except wherein the encoding unit encodes received data that includes audio data and the video

data, and the encoding/transmitting apparatus further comprises an audio- data output control unit to fade-out or fade-in the audio data before the audio data is received by the encoding unit, in which the encoding unit controls the audio-data output control unit to fade-out the audio data to be encoded and then stops an encoding process when an area occupied by data in the storage unit is larger than a predetermined value, and controls the audio-data output control unit to fade-in the audio data to be encoded and then performs the encoding process when the area occupied by the data in the storage unit is smaller than the predetermined value.

This taken with other limitations of the claims is considered novel and non-obvious.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chandrahas Patel whose telephone number is (571)270-1211. The examiner can normally be reached on Monday through Thursday 7:30 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ricky Ngo/
Supervisory Patent Examiner, Art Unit 2464

/Chandrahas Patel/
Examiner, Art Unit 2464